**UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF TEXAS**

ROSARIO PEREZ ALVAREZ,	§	
	§	**Case No.:**
Plaintiff,	§	
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
MEDICREDIT, INC.,	§	
	§	
Defendant.	§	
	§	

COMPLAINT

ROSARIO PEREZ ALVAREZ ("Plaintiff"), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against MEDICREDIT, INC. ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq*. and the Telephone Consumer Protection Act, ("TCPA"), 47 U.S.C. § 227, *et seq*.

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and 28

U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant has an office and conducts business in the State of Texas and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in San Antonio, Texas.

6. Plaintiff is a "consumer" pursuant to 15 U.S.C. § 1692a(3).

7. Plaintiff is a "person" as that term is defined by 47 U.S.C. §153(39).

8. Defendant is a debt collection company with its headquarters located at 3 City Place Drive, Suite 6900, Saint Louis Missouri 63141.

9. Upon information and belief, Defendant is a corporation that provides call center, collections and debt purchase services to companies in the United States.

10. At all times material hereto, Defendant acted as a "debt collector" within the meaning of 15 U.S.C. § 1692(a)(6), and repeatedly contacted Plaintiff in its attempts to collect a "debt" as defined by 15 U.S.C. § 1692(a)(5) for another person.

11. Defendant is a "person" as that term is defined by 47 U.S.C. §153(39).

12. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

13. Upon information and belief, Defendant collects, and attempts to collect, debts incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of creditors using the U.S. Mail, telephone and/or internet.

14. Upon information and belief, the alleged debt Defendant was seeking to collect arose out of transactions that were related to a medical debt.

15. Within the one year period preceding the filing of this complaint and continuing through May 2016, Defendant placed repeated harassing telephone calls to Plaintiff's cellular telephone.

16. Defendant made these calls from the following phone number: (866) 316-9222. The undersigned has since confirmed that this number belongs to Defendant.

17. Frustrated by the calls, Plaintiff told Defendant to stop calling in March 2016, revoking any consent Defendant may have had to call her on her cellular telephone.

18. However, Defendant ignored Plaintiff's request and continued to call

through May 2016.

19. During this time, Plaintiff reiterated her request for calls to cease.

20. Once Defendant knew its calls were unwanted any further calls could only have been for the purpose of harassing Plaintiff.

21. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and/or artificial or pre-recorded messages.

22. Plaintiff knew that Defendant was using an automatic telephone dialing system and/or artificial or pre-recorded messages as calls to her would begin with a pre-recorded message before the call would be transferred to a live collector.

23. Defendant's calls were not for emergency purposes.

24. After numerous requests to Defendant to stop calling had failed, Plaintiff was forced to block calls to her cellular device using a mobile telephone application.

DEFENDANT VIOLATED THE
FAIR DEBT COLLECTION PRACTICES ACT

COUNT I

25. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§ 1692d and 1692d(5).

a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

c. Here, Defendant violated §§ 1692d and 1692d(5) of the FDCPA when it called Plaintiff's cellular telephone repeatedly despite knowledge its calls were unwanted.

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

COUNT II

26. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

27. Defendant initiated multiple telephone calls to Plaintiff's cellular telephone using an automatic or "predictive" dialing system.

28. The calls were made using an artificial or pre-recorded voice.

29. Defendant's calls to Plaintiff were not made for emergency purposes.

30. Plaintiff verbally revoked any prior consent she may have given to Defendant to call his cellular telephone in March 2016.

31. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

32. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

33. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, ROSARIO PEREZ ALVAREZ, respectfully prays for a judgment as follows:

a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
b. Statutory damages of $1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs, pursuant to 15 U.S.C. § 1693k(a)(3);
d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);

e. Statutory damages of $500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);

f. Treble damages of $1,500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);

g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);

h. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ROSARIO PEREZ ALVAREZ, demands a jury trial in this case.

Respectfully submitted,

DATED: March 13, 2017

By: /s/ Amy Lynn Bennecoff Ginsburg

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